

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER MCDANIEL,
Plaintiff,

v.

LYNN WOOD,
Defendant.

Case No. 21-12307
Honorable Shalina D. Kumar
Magistrate Judge Kimberly G. Altman

**ORDER ADOPTING REPORT AND RECOMMENDATION (ECF NO. 22)
AND GRANTING IN PART AND DENYING IN PART DEFENDANT'S
MOTION TO DISMISS AND FOR SUMMARY JUDGMENT (ECF NO. 17)**

Pro se plaintiff Christopher McDaniel, a Michigan Department of Corrections prisoner currently incarcerated at the Macomb Correctional Facility, filed a civil rights action under 42 U.S.C. Section 1983 alleging First and Fourteenth Amendment violations arising from events which occurred while he was housed at the Cooper Street Correctional Facility. ECF No. 1. This case was referred to the magistrate judge for all pretrial matters pursuant to 28 U.S.C. Section 636(b). ECF No. 9. Defendant Lynn Wood filed a motion to dismiss, or alternatively, for summary judgment based on a failure to exhaust administrative remedies. ECF No. 17. The motion was fully briefed. ECF Nos. 19, 20, 21.

On December 9, 2022, the assigned magistrate judge issued a Report and Recommendation (“R&R”). ECF No. 22. The R&R recommends that the Court grant Wood’s motion to dismiss McDaniel’s Fourteenth Amendment claims and deny Wood’s motion for summary judgment on McDaniel’s First Amendment retaliation claim based on failure to exhaust the prison grievance process. *Id.* No party has filed an objection to the R&R.

The Court has reviewed the record and **ADOPTS** the R&R as the findings and conclusions of the Court.

Accordingly,

IT IS ORDERED that defendant’s motion to dismiss is **GRANTED**, and McDaniel’s Fourteenth Amendment claims are **DISMISSED** without prejudice. Wood’s motion for summary judgment on McDaniel’s First Amendment retaliation claim is **DENIED**.

Dated: February 13, 2023

s/Shalina D. Kumar
SHALINA D. KUMAR
United States District Judge